IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE SEVENTEENTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE GODA RAGHURAM

-

WRIT PETITION NO : 15339 of 1996

Between:

Gadiraju Suri Babu S/o.Narasimha Raju
Sri Talupulamma Vari Devasthanam Lova, Tuni Mandalam
East Godavari Dist

..... PETITIONER

AND

1 The Commissioner of Endowments Department A.P., Hyderabad
2 The Executive Officer, Sri Talupulamma Vari Devasthanam Lova, Tuni Mandalam, East Godavari Dist
3 P.Srinivas S/o.P.Rama Chandra Rao R/o.Seetharampuram, E.G.District

(The 3rd respondent was impleaded by an order of this Court Dated19-9-1996.)
(The petition against the 3rd respondent abates as he is dead.)

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ of mandamus or any other appropriate writ, order or direction declaring the letter of the Commissioner of Endowments Department, AP., Hyderabad in letter Rc.No.B2/12729/96, Dated11/4/1996 as illegal and without jurisdiction.

Counsel for the Petitioner:MR.K.V.SATYANARAYANA

Counsel for the Respondent Nos. 1 and 2 : Government Pleader for Endowments.

Counsel for the Respondent No.3: MR.P.VENUGOPAL

The Court made the following :

-

-

-

-

-

-

-

-

ORDER:

1. Heard Sri K.V.Satyanarayana the learned counsel for the petitioner, the Government Pleader for Endowments for respondents No.1 and 2 and the learned counsel for the respondent No.3.

2. The 3rd respondent was impleaded by an order of this court dated 19-9-1996. It is represented that subsequently the 3rd respondent died. The writ petition, therefore, abates insofar as the 3rd respondent is concerned.

3. The petitioner started his service in the Endowments Department as a Junior Assistant. He was promoted as Senior Assistant pursuant to the orders of the Deputy Commissioner of Endowments, Kakinada dated 11-5-1989. While he was working so in the Relangi Group of Temples, he was transferred and posted to Talupulammmavari Devasthanam as Senior Assistant. In this Devasthanam there were three Senior Assistant posts, which were up-graded to the Superintendent category. The up-gradation was effected on 2-8-1994. On 3-8-1994 the 2nd respondent-Executive Officer of the Devasthanam promoted the petitioner and two other Senior Assistants to the cadre of Superintendents on temporary basis. These promotions were issued to the petitioner and two others though they were not qualified for such promotion as they did not posses a pass in the Accounts Test for Subordinate Officers Part-I, which was a requisite qualification for holding the post of a Superintendent. As none of the three Senior Assistants were qualified for regular

promotion as Superintendent, all the three including the petitioner, were promoted on temporary basis subject to a condition that they acquire a pass in the Accounts Test for Subordinate Officers Part-I within a period of two years from the date of promotion, failing which, they would be reverted to the post of Senior Assistant. The petitioner did not acquire the stipulated qualification within the two year period i.e, before 2-8-1996.

4. As the petitioner failed to acquire the qualification within the time stipulated in the order dated 3-8-1994, the 1st respondent, by the impugned proceeding dated 11-4-1996, sensitized the 2nd respondent, the competent authority and the Executive Officer of the Devasthanam, to consider the reversion of the petitioner from the category of Superintendent to the Senior Assistants cadre, if the petitioner fails to acquire the requisite qualification to hold the post of Superintendent by 2-8-1996. The 1st respondent also directed the 2nd respondent to report compliance by 10-8-1996.

5. It is contended by the learned counsel for the petitioner that the order impugned in the writ petition, issued by the 1st respondent, is patently incompetent and without jurisdiction. It is contended that as the Talupulammavari Devasthanam is a group-VI A Temple, the competent authority to effect promotions in the Devasthanam service or to issue orders of reversion, is the Executive Officer, under the Provisions of A.P., Charitable and Hindu Religious Endowments Act, 1987 (for short the Act).

Therefore, the 1st respondent Commissioner has no manner of power, authority or jurisdiction and could not usurp the powers of the Executive Officer. Alternatively it is contended, as subsequently the petitioner acquired the qualification of a pass in the Accounts Test for Subordinate Officers Part-I, he is now qualified to hold the post of the Superintendent. In the circumstances, he need not suffer reversion to the post of Senior Assistant.

6. None of the contentions urged on behalf of the petitioner commend acceptance by this court. The impugned order dated 11-4-1996 of the 1st respondent is not a communication in *rem*. It is an internal communication addressed by the 1st respondent to the 2nd respondent. The 1st respondent, as the Commissioner of Endowments has a plenitude power, authority and jurisdiction to ensure the legality and integrity of the administrative operations of the Endowments Department. He

has adequate powers under the Act to ensure that the authorities in the department act in accordance with the provisions of the Act or any other relevant instructions issued there under. It is not disputed that a pass in the Accounts Test for Subordinate Officers Part-I is a *sine qua non* for holding the post of Superintendent in a Group VI-A temple, which the Talupulammavari Devasthanam is. It is also not disputed that as on the date of promotion i.e., 3-8-1994, the petitioner did not possess the required qualification. He was, therefore, ineligible to hold the post of Superintendent on a regular basis. In the exigencies of administration and as none of the Senior Assistants were qualified, the Executive Officer by

the order dated 3-8-1994 promoted three of the unqualified Senior Assistants, including the petitioner to temporarily hold the post of Superintendent subject to acquiring the mandatory qualification within a period of two years. The temporary promotion that the petitioner obtained by the 2nd respondent's order dated 3-8-1994 was therefore a self-limiting order, which stood determined on efflux of the period i.e., by 2-8-1996, when the petitioner failed to acquire the relevant qualification on the completion of the two years period. The impugned order of the 1st respondent dated 11-4-1996 merely sensitized the 2nd respondent as to the statutory compulsion and the 2nd respondent's obligation in law in accordance with his own order dated 3-8-1994 granting temporary promotion to the petitioner and two others.

7. The fact that the petitioner acquired the qualification later does not in any way cure the infirmity of his temporary promotion on 3-8-1994 nor entitles him to continue in office after 2-8-1996 as he failed to acquire the mandatory qualification to hold the post, beyond 2-8-1996. If the petitioner has qualified for the post later, he would be entitled for consideration to the promotion afresh in accordance with whatever his entitlement would be on the basis of latter acquisition of such qualification. He could not, however be permitted to claim, that he is entitled to conversion of his temporary promotion as a regular promotion.

8. In the aforesaid analysis, there are no merits in the writ petition.

9. The writ petition is accordingly dismissed. No order as to costs.

17-08-2004

sh/mrk

To

1. The Commissioner of Endowments Department A.P., Hyderabad
2 The Executive Officer, Sri Talupulamma Vari Devasthanam
Lova, Tuni Mandalam, East Godavari Dist
3. Two C.Cs o the Government Pleader for Endowments, High Court Buildings, High Court of A.P., Hyderabad.(out).
4. **2CD copies**

-

THE HON'BLE MR JUSTICE GODA RAGHURAM

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

WRIT PETITION NO : 15339 of 1996

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

Dated: 17.08.2004